

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20830 of 2006

Date of Decision: 08-01-2007

- 1.Saral Kumari wife of Sh.Harish Sharma, resident of House No.1271, Street Para, Palwal (Faridabad)
- 2.Pawan Kumar son of Sh.Udai Bhan, resident of Village Alhapur, Tehsil Palwal, Faridabad

.....Petitioners

VERSUS

- 1.State of Haryana through its Secretary to Government of Haryana, Education Department, Haryana Civil Secretariat, Chandigarh
- 2.The Director Elementary Education Haryana, 30 Bays Building, Sector 17, Chandigarh
- 3.The District Elementary Education Officer, Kurukshetra

.....Respondents

**CORAM:- HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR.JUSTICE R S MADAN**

PRESENT: Mr.Anand Bhardwaj, Advocate
for the petitioners.

R S MADAN, J.

Challenge here in this writ petition is the advertisement dated 14-11-2006 (Annexure P7) vide which the special recruitment drive to fill up 560 posts of JBT Teachers in Education Department was advertised inviting the applications from orthopaedically handicapped candidates of Haryana residents with 40% or more disability. The detailed qualification for the aforesaid post was reflected in the advertisement. The last date of

submission of application forms was 30-11-2006.

The claim of the petitioners is that petitioner No.1 is suffering from hearing impairment with 45% disability whereas petitioner No.2 is suffering from low vision with 60% disability. They have been denied of their right of employment and opportunity in violations of Sections 32 and 33 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as an 'Act').

It is further the case of the petitioners that aggrieved by the aforesaid advertisement, the petitioners made individual representations dated 21-11-2006 to respondent No.2 and submitted that the candidates suffering from blindness or low vision and hearing impairment have been deprived of their right to be considered for appointment against the posts reserved for them. A copy of the representation is annexed as Annexure P8.

Respondent No.2 submitted the following reply (Annexure P9), which is reproduced as under:

“From

*Director Elementary Education
Haryana Chandigarh*

To

*1.Sarla Sharma
House No.1271, Street Para,
Palwal (Faridabad)*

*2.Parveen Kumar
Village & Post Office Kalwaka,
(Faridabad)*

*3.Pawan Kumar
Village & Post Office Alapur,
(Faridabad)*

*4.Dinesh Kumar
Village & Post Office Kalwaka,
(Faridabad)*

*Memo No.20/18-2004-ET-II (4)
Dated, Chandigarh, the 05.12.2006*

*Subject: Regarding appointment to the post of JBT
Teacher Representation of blind candidates
thereof.*

*Reference your representation dated 21/27-11-2006 on
the subject noted above.*

*It is intimated that JBT Teacher is required to teach
students of Primary classes both by writing on
blackboard as well as orally. He/She has to correct and
guide children in writing and forming various alphabets
and words besides simple arithmetic. The teacher is also
supposed to engage these children in play activities.*

*Small children are restless. They love to be doing
something: to sit idle and passive is not at all to their
taste. One of the marked characteristics of children is
love of variety, changeableness, lack of power to
concentrate. Their minds are like butterflies flitting
about from flower to flower. To discipline such a group,
the teacher must be able to see and hear any disturbance
or movement in class. As such blind or deaf and dumb
teachers may prove to be failure in Primary Classes.
And therefore, in view of the reasons given above, the
State Government has considered the matter in terms of
provision to Section 36 of the PWD Act 1995 and
decided to inter-change blind deaf/dumb vacancies into
Physically disable candidates for the appointment to the
post of JBT Teachers in Govt. Primary School.*

*In view of the above decision of the State Government
the department of Elementary Education Haryana,*

Chandigarh has invited the application only for the orthopaedically handicapped candidate by converting the 2% quota of blind and deaf/dumb disable candidate in all over quota of 3%.

*Sd/-
Administrative Officer(P)
for Director, Elementary Education,
Haryana, Chandigarh*

Endst.No. Even

Dated

A copy for information and necessary action is forwarded to District Elementary Education Officer, Kurukshetra.

*Sd/-
Administrative Officer(P)
for Director, Elementary Education,
Haryana, Chandigarh”*

The claim of the petitioners is that they have been deprived of their right to be considered for the post of JBT teachers against the quota mentioned in the Act.

We have considered the case of the petitioners and are of the view that taking into account the stand of the Department as mentioned above in Annexure P9, the paramount consideration before the Department is to impart the best possible education to the innocent children of primary classes. To discipline such a group of children, a teacher must be able to see and hear any disturbance and movement in the class where a blind or deaf and dumb teacher may prove to be a failure to teach the students of the Primary Classes.

In the advertised posts, the offer is being made to the orthopaedically handicapped candidates suffering disability to the extent of

40% from the residents of Haryana, is in order and without any infirmity.

Hence, this writ petition being devoid of merit is dismissed.

**(R S MADAN)
JUDGE**

**January 08, 2007
jt**

**(ASHUTOSH MOHUNTA)
JUDGE**